

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

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WRIT PETITION NO: 9779 of 1997

Between:

- 1 Kasanna S/o. Mogilaiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 2 Kumari Sessaiah S/o. Ramaswamy
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 3 A. Kurumaiah S/o. Chandraiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 4 K. Ramanaiah S/o. Laxmaiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 5 Ranganbhavi Ramulu S/o. Balaiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 6 Kumar Sessaiah S/o. Ramaswamy
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 7 Pedda Mogilaiah S/o. Balaiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 8 Kumari Ramulu S/o. Pedda Kistaiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 9 Kumar Nagendram S/o. Kistaiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,
- 10 K. Nagendram S/o. Kistaiah
R/o. Busireddypally village, Phangal Mandal, Mahabubnagar Dist.,

... PETITIONERS

AND

- 1 The Dist. Collector, Mahabubnagar,
MAHABUBNAGAR
- 2 The Dist., Manager, (Housing), Mahabubnagar.

MAHABUBNAGAR

3 The Managing Director, A.P.State Housing Corporation Ltd., Hyd.,
HYDERABAD

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ, particularly one in the nature of Writ of Mandamus directing the respondents herein to sanction and construct the houses to all the petitioners herein and also other beneficiaries who are allotted house sites in the year 1985 under the scheme Weaker Sections Housing Programme, by acting according to the provisions of the said scheme, otherwise we all the petitioners belonging to poor backward class community, of Busireddypally village, Phangal Mandal, Mahabubnagar Dist., shall suffer irreparable loss and hardship and pass such other order or orders that may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr .A.BICHAIAH

Counsel for the Respondents: GP FOR HOUSING

The Court made the following:

ORDER:

Heard Sri Bichaiah, learned counsel for the petitioners and the Government Pleader for Housing.

2. The writ petition is filed for a writ of *Mandamus* directing the respondents to sanction and construct houses to all the petitioners herein and also other beneficiaries who are allotted house sites in the year 1985 under the scheme 'Weaker Sections Housing Programme', by acting according to the provisions of the said scheme and pass such other suitable orders.

3. The main grievance ventilated by Sri Bichaiah representing the writ petitioners and also the list of petitioners, which had been furnished, is that their cases had not been considered in accordance with the guidelines issued in Memo No.4657/R.H.I/96-8, Dt.16-11-1998. On the contrary, learned Government Pleader would contend that the writ of *Mandamus* cannot be issued since these are welfare measures and it is for the Government to take appropriate policy decision in this regard.

4. Heard both the counsel.

5. It is averred in the affidavit filed in support of the petition that the Government is pleased to grant pattas of house sites to the petitioners under the programme of helping Weaker Sections in the land Sy.No.467, 466, 465 and 516 at Busireddypally village as per the lay-out plan. It is also stated that all the writ petitioners are poor, backward class people and doing agricultural work and taking into consideration the pathetic poor condition, after due enquiry, the Government came to the conclusion to help the petitioners by constructing houses to backward class people under the scheme 'Weaker Section Housing Programme'. Several other details relating to the

financial conditions of the writ petitioners also had been narrated. It is also stated that despite repeated requests, the Government did not consider to help the writ petitioners. In the year 1996, Government had taken up Weaker Section Housing Programme as per G.O.Ms.No.87, Housing (RH) Department, dt.24.10.1996, whereunder certain guidelines have been issued and the petitioners and other allottees of sites would fall within the said guidelines and they are also ready and willing to comply with any other conditions. The learned counsel also placed reliance on Memo NO.4567/R.H.I/96-8, dated 16.11.1996, which reads as hereunder:

“In the guidelines annexed to the O.C referred above instructions were issued regarding scattered housing on the sites owned by the individual beneficiaries that all houses under Weaker Sections Housing Programme, in the first instance, should be taken up only on the sites already assigned by the Government and that if adequate number of house sites are not available in a given constituency, then the selection authorities would be permitted to select the beneficiaries having their own sites for scattered housing.

2 . Govt. have been involving many representations from legislators to consider Housing (Scattered Housing) also for the eligible people who are having their own sites. Govt. after careful consideration hereby permit the District Collectors and all other selection authorities to select beneficiaries having their own sites but otherwise fulfill eligibility criteria for Weaker Sections Housing , to a maximum extent of 50%.

3 . The District Collectors and Executive Directors of A.P. State Housing Corporation Ltd., are requested to communicate the decisions of the Govt. in this regard to all the selection authorities viz., the Legislators and the Chairman, DDRCs (District Development Review Committees) for necessary action and ensure that while selecting the beneficiaries under the scattered housing, they should conform to the caste composition as well as eligibility criteria already prescribed in the Govt. order referred.

4. Govt. also propose to consider the issue of patta certificates to all the eligible beneficiaries having their own house sites by accepting surrender of such house sites, by the beneficiary to the Govt, treat the same as Govt. site thereafter, and assign it to the beneficiary to so that the patta certificates so issued could be mortgaged to A.P. State Housing Corporation Ltd., to raise equitable mortgage for the loan taken by the beneficiary. Detailed instructions will issue in this regard.

5. The District Collectors are requested to take action accordingly.”

6. The main grievance is that despite repeated requests inasmuch as the benefits of

the scheme are not being conferred, the writ petitioners approached this Court by filing the present writ petition claiming benefit under the Weaker Section Housing Programme. Several other details relating to the petitioners also had been furnished by way of a list appended to the present writ petition. It is no doubt true that these are only the guidelines, but, however, the Government is expected to follow the guidelines, which had been formulated by the Government itself. In the light of the grievance ventilated by the writ petitioners, this Court is of the considered view that the writ petition can be disposed of with the following directions:

7. The writ petitioners shall make a representation giving all the particulars to respondents 1 and 2 in this regard, within a period of two weeks from the date of receipt of this order and respondents 1 and 2 shall consider the said representation taking into consideration the guidelines referred to supra and pass appropriate orders within one month thereafter.

8. The writ petition is accordingly disposed of. No order as to costs.

P.S.NARAYANA, J

Dated: 15.2.2005

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To

- 1 The Dist. Collector, Mahabubnagar,
MAHABUBNAGAR
- 2 The Dist., Manager, (Housing), Mahabubnagar.
MAHABUBNAGAR
- 3 The Managing Director, A.P.State Housing Corporation Ltd., Hyd.,
HYDERABAD
4. 2 CCs to G.P for Housing, High Court Bldgs,Hyd. (OUT)
5. 2 CD copies